

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT	)	ORDER REMOVING
NO. 47-7739 IN THE NAME OF	)	MEASURING DEVICE
WILLIAM AND/OR CAROL FULTZ	)	REQUIREMENT
_____	)	

This matter having come before the Department of Water Resources (Department) to remove a measuring device requirement, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On December 10, 1981, the Department issued Permit 47-7739 (permit) to William and/or Carol Fultz (permit holders) with a condition of approval requiring the installation and maintenance of measuring devices at the point of diversion and at the point of effluent discharge.
2. On November 16, 2004, Department field examiners conducted an examination to confirm and quantify beneficial use of water under Permit 47-7739.
3. On December 7, 2004, the Department received information from the field examiners that the permit holder's distribution system is closed and there is no flow loss associated with the use.

CONCLUSIONS OF LAW

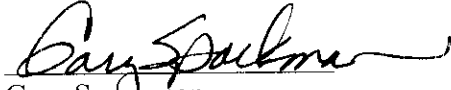
1. Installation of a measuring device at the point of effluent discharge is not necessary because the flow is unchanged from the point of diversion to the point of effluent discharge.
2. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver of a measuring device requirement by the Department.
3. The Department should remove the requirement that the holder of Permit 47-7739 maintain a measuring device at the point of effluent discharge.

ORDER

The condition of approval requiring the installation and maintenance of a measuring device at the point of diversion and the point of effluent discharge for the permit is **MODIFIED** as follows:

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department at the point of diversion.

Dated this 20th day of December, 2004.


Gary Spackman